

REMARKS

The Office Action mailed July 28, 2003 has been received and carefully considered.

Upon entry of the preceding amendments, claims 1-6 are currently pending.

I. Claim Amendments

Claim 6 has been added. Support for new claim 6 is found at least in Table 1 on page 9 of the specification as originally filed. No new matter is added by way of this amendment.

II. Rejection under 35 U.S.C. 102(b)

Claims 1-5 stand rejected as allegedly anticipated by U.S. Patent No. 5,882,794 to Hernandez et al. ("Hernandez"). The Applicant respectfully traverses this rejection.

It is well established that for a claim to be anticipated, each and every element of that claim must be shown in a prior art reference, either explicitly or under principles of inherency.

In re Schreiber, 128 F.3d 1473, 1477 (Fed. Cir. 1997).

Applicant's claimed invention is directed to a filled article comprising a non-clustered, blown fiber having a denier per filament of 3 or less, characterized by a curvilinear crimp structure and a staple pad friction less than 0.260.

Hernandez teaches a process for preparing filaments having three continuous round voids throughout their fiber length and converting the filaments to staple fiber. Hernandez, col. 2, lines 49-50, 59-60. The staple fibers may be used as fiber fill in stuffing articles. Hernandez, col. 1, lines 17-20. Suitable filament deniers range from 1.5 to 20 dtex. Hernandez, col. 3, lines 21-25. One example discloses that the staple fibers of the filaments prepared by Hernandez may have a staple pad friction of 0.213. Hernandez, Table 5.

However, Hernandez does not teach an article that is filled with non-clustered, blown fibers of any kind, as required by Applicant's claimed invention. As discussed in each of

Examples 1-3 of Hernandez, the pillows made from the fiberfill of Hernandez were stuffed using a Bemiss pillow stuff. Hernandez, col. 6, line 20-32. This clearly differentiates Hernandez from Applicant's claimed filled article that requires blown fibers.

Furthermore, Applicant's claimed invention requires a filled article that comprises a non-clustered fiber. As described at page 2 of the specification as originally filed, "non-clustered" means having other than a randomly entangled, spherical shape. Conversely, the staple fibers of Hernandez are formed into fiberballs having a random distribution and entanglement of fibers within each ball. Hernandez, col. 2, lines 59-65. Thus, not only does Hernandez not disclose Applicant's non-clustered fiber, but Hernandez actually discloses a filled article having fibers that are the exactly opposite of Applicant's claimed invention.

With respect to newly added claim 6, Hernandez does not teach a staple pad friction of about 0.19 or less. The lowest example of staple pad friction taught by Hernandez is 0.213. Hernandez, Table 5. Thus, Hernandez fails to disclose both the required elements of Applicant's claim 1 from which claim 6 depends and the additional limitations included by way of claim 6.

Accordingly, as Hernandez does not disclose each and every limitation of Applicant's claimed invention, Applicant respectfully submits that the rejection should be withdrawn.

CONCLUSION

For at least the reasons stated above, claims 1-6 are in condition for allowance.

Accordingly, Applicant respectfully requests that the amendments be entered and the Application be allowed and passed to issue. In the event any outstanding issues remain, Applicant would appreciate the courtesy of a telephone call to Applicant's undersigned representative to resolve such issues in an expeditious manner.

Applicants hereby request a three month extension of time for filing this amendment. The Commissioner is authorized to charge the three month extension of time fee of \$950.00 to the undersigned's Deposit Account No. 04-1928. If any variance is determined from the fees due and the fees authorized to be charged, please deduct or credit the undersigned's Deposit Account No. 04-1928 the difference.

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Respectfully submitted,

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